

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
NORTHERN DIVISION**

EARNEST L. BUCKNER,

Plaintiff,

v.

A. SHAFFER, et al.,

Defendants.

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No. 2:23-cv-4-MTS

**MEMORANDUM AND ORDER**

Plaintiff Earnest L. Buckner instituted this civil action on February 6, 2023, while incarcerated at the Northeast Correctional Center. He did not pay the statutory filing fee, and instead filed a motion for leave to proceed in forma pauperis that was accompanied by a certified copy of his inmate account statement. However, he also provided a notice stating he would be released from prison on February 14, 2023. He provided a new mailing address to use after that date. On February 15, 2023, Plaintiff called the Court and confirmed that that new mailing address was his current address.

In an Order dated May 12, 2023, the Court noted it was apparent Plaintiff had been released from prison, and his motion and inmate account statement therefore did not accurately reflect his current finances. The Court directed Plaintiff to either pay the statutory filing fee for this action or file an updated Application to Proceed in District Court Without Prepaying Fees or Costs that accurately reflected his current finances. The Court provided Plaintiff with a copy of a blank Application to Proceed in District Court Without Prepaying Fees or Costs. The Court took no action as to Plaintiff's pending motion.


Plaintiff's response was due to the Court on May 26, 2023. To date, however, Plaintiff has not responded to the Court's order or sought additional time to do so. Plaintiff was given meaningful notice of what was expected and he was given ample time to comply. The Court therefore dismisses this action, without prejudice, due to Plaintiff's failure to comply with the Court's May 12, 2023, Order. *See* Fed. R. Civ. P. 41(b); *see also Brown v. Frey*, 806 F.2d 801, 803-04 (8th Cir. 1986) (a district court has the power to dismiss an action for the plaintiff's failure to comply with any court order).

Accordingly,

**IT IS HEREBY ORDERED** that this case is **DISMISSED** without prejudice. A separate order of dismissal will be entered herewith.

**IT IS FURTHER ORDERED** that Plaintiff's motion for leave to proceed in forma pauperis, Doc. [2] is **DENIED** as moot.

Dated this 7th day of June, 2023.



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MATTHEW T. SCHELP  
UNITED STATES DISTRICT JUDGE